

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

MARK ORTEGA, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

KELLER WILLIAMS REALTY, INC.,
and KWWD, LLC

Defendants.

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Case No. SA-24-CV-00332-XR

**DEFENDANTS' MOTION FOR ORDER TO SHOW CAUSE AND/OR TO COMPEL IN
REGARD TO THIS COURT'S SEPTEMBER 16, 2024 ORDER**

Defendants, KELLER WILLIAMS REALTY, INC. and KWWD, LLC, through their undersigned counsel, request this Court enter an order to show cause and/or to compel in regard to this Court's September 16, 2024 order, ECF No. 25, and state:

1. On September 16, 2024, this Court, in part, ordered: "that the Plaintiff(s) confer with the Defendant(s) as required by Fed. R. Civ. P. 26(f) to submit (1) a proposed scheduling order and (2) a Rule 26(f) Report ... for the Court's consideration by October 16, 2024." ECF No. 25.

2. On September 26, 2024, counsel for plaintiff proposed that the parties confer telephonically on October 7, 2024 at 2:00 pm CT regarding the Court ordered proposed scheduling order and Rule 26(f) Report.

3. Counsel for both defendants agreed to participate in this telephonic conference.

4. On October 7, 2024, at 9:27 am CT, counsel for plaintiff wrote counsel for defendants, indicating that she needed to reschedule the conference and requesting the conference be rescheduled for Wednesday, October 9, 2024.

5. On October 7, 2024, counsel for defendant KWWD, LLC indicated that Wednesday, October 9, 2024 was unavailable, but offered Tuesday, October 8, 2024 and Thursday, October 10, 2024, as available dates.

6. Plaintiff did not respond.

7. On Friday, October 11, 2024, counsel for defendants again attempted to communicate with counsel for plaintiff, proposing that the previously cancelled conference be rescheduled to October 15, 2024. Counsel for defendant KWWD, LLC also provided some broad proposed terms for the proposed scheduling order and Rule 26(f) Report.

8. Plaintiff did not respond.

9. On October 14, 2024, counsel for defendant KELLER WILLIAMS REALTY, INC. wrote plaintiff as follows:

“Ms. Almanza,

What is the status of your availability for this Rule 26 conference?
We have not received a response from you since you unilaterally cancelled the (court ordered) conference last Monday.”

10. Plaintiff did not respond.

11. On October 15, 2024, counsel for defendant KELLER WILLIAMS REALTY, INC. wrote plaintiff as follows:

“Ms. Almanza,

The court has ordered us to confer and file a report.
If you do not respond, we will have to notify the Court that you are not in compliance with the court order.
Please advise.

Thank you.”

12. Plaintiff did not respond.

13. As a result, faced with the deadlines set by this Court’s September 16, 2024 order, ECF No. 25, defendants see no other choice than to bring this motion to the Court seeking entry of an order to show cause and/or to compel in regard to this Court’s September 16, 2024 order, ECF No. 25.

14. Plaintiff should show cause as to why plaintiff has failed to confer with defendants as ordered and/or should be compelled to confer as ordered, or else this case should be dismissed for want of prosecution.

Date: October 16, 2024

Respectfully submitted,

/s/ Todd P. Stelter

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**ATTORNEYS FOR DEFENDANT
KWWD, LLC**

CERTIFICATE OF CONFERENCE

I have made several attempts to confer with Mr. Ortega's counsel (several times between October 7, 2024 and October 11, 2024, and also on both October 14, 2024 and October 15, 2024) regarding the requested relief in this motion and have not received a response.

/s/ Todd P. Stelter
Todd P. Stelter

CERTIFICATE OF SERVICE

A true and correct copy of this document was served on October 16, 2024 as follows:

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VIA CM/ECF SYSTEM

/s/ Todd P. Stelter
Todd P. Stelter